



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/662,784	09/15/2000	Malcolm L. Gelter	IMI-044DV3CN	3152
959	7590	05/16/2006	EXAMINER	
LAHIVE & COCKFIELD 28 STATE STREET BOSTON, MA 02109			TURNER, SHARON L	
			ART UNIT	PAPER NUMBER

1649

DATE MAILED: 05/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/662,784

Applicant(s)

GEFTER ET AL.

Examiner

Sharon L. Turner

Art Unit

1649

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 95,96 and 101-104 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 95,96 and 101-104 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3-6-06</u> | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3-6-06 has been entered.
2. The amendment filed 3-6-06 has been entered into the record and has been fully considered.

3. Claims 95-96 and 101-104 are pending.
4. Applicant's amendments to the claims present a substantial number of patentably distinct peptides having various epitope containing portions as newly recited. While the claims remain drawn in part to elected SEQ ID NO:6, and will be examined to that extent, the newly recited peptides drawn to the extent of different epitope-containing portions each define new generic recitations. Therefore only peptides to the extent of a single epitope containing portion will be initially examined. Accordingly, further restriction/election is required as follows. Rejoinder would only be considered upon the determination of allowable and linking subject matter as defined within the claims.

Election/Restriction

5. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Peptides containing the following epitope portions:

- a. Fel 16 (residues 1-22 of SEQ ID NO:6), classified for example in class 350, subclass 300.
- b. Fel 17 (residues 12-33 of SEQ ID NO:6) classified for example in class 350, subclass 300.
- c. Fel 32-1 (residues 12-24 of SEQ ID NO:6) classified for example in class 350, subclass 300.
- d. Fel 32-2 (residues 14-24 of SEQ ID NO:6) classified for example in class 350, subclass 300.
- e. Fel 32-3 (residues 16-24 of SEQ ID NO:6) classified for example in class 350, subclass 300.

- f. Fel 18 (residues 23-48 of SEO ID NO:6) classified for example in class 350, subclass 300.
- g. Fel 33-1 (residues 26-36 of SEO ID NO:6) classified for example in class 350, subclass 300.
- h. Fel 33-2 (residues 26-38 of SEO ID NO:6) classified for example in class 350, subclass 300.
- i. Fel 33-3 (residues 14-38 of SEO ID NO:6) classified for example in class 350, subclass 300.
- j. Fel 31-1 (residues 14-40 of SEO ID NO:6) classified for example in class 350, subclass 300.
- k. Fel 31-2 (residues 14-39 of SEO ID NO:6) classified for example in class 350, subclass 300.
- l. Fel 31-3 (residues 14-38 of SEO ID NO:6) classified for example in class 350, subclass 300.
- m. Fel 31-4 (residues 14-37 of SEO ID NO:6) classified for example in class 350, subclass 300.
- n. Fel 31-5 (residues 14-36 of SE ID NO:6) classified for example in class 350, subclass 300.
- o. Fel 31-6 (residues 15-40 of SEO ID NO:6) classified for example in class 350, subclass 300.
- p. Fel 31-7 (residues 15-36 of SEO ID NO:6) classified for example in class 350, subclass 300.

- q. Fel 20-1 (residues 34-59 of SEO ID NO:6) classified for example in class 350, subclass 300.
 - r. Fel 25 (residues 49-68 of SEO ID NO:6) classified for example in class 350, subclass 300.
 - s. Fel 28 (residues 60-82 of SEO ID NO:6) classified for example in class 350, subclass 300.
2. The inventions are distinct, each from the other because of the following reasons:
3. Inventions designated as a-s are related as various portions of SEQ ID NO:6 and are related as products. However, the products are patentably distinct each from the other as the products are comprised of divergent structure, each exhibiting different effects and functions. For example each of the peptide portions is distinguished via the unique amino acid residues of the corresponding epitope. The peptides elicit unique antibodies and stimulate unique antigenic properties and are therefore exhibit distinct therapeutic properties and pharmaceutical compositions. Each of the polypeptides has a unique structural feature which requires a unique search of the prior art. The inventions indicated as a-s also differ in associated properties such as the ability to bind and/or mediate biological functions. A reference to one element would not constitute a reference to another. In addition, searching all of the molecules in a single patent application would provide an undue search burden on the examiner and the USPTO's resources because the indicated searches are not co-extensive.

4. Because these inventions are distinct for the reasons given above and the search required for any Group is not required for any other Group, restriction for examination purposes as indicated is proper.
5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.
6. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).
7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).
8. Any inquiry of a general nature or relating to the status of this general application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Papers relating to this application may be submitted to Technology Center 1600, Group 1640 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). Should applicant wish to FAX a response, the current FAX number for Group 1600 is (703) 872-9306.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

Art Unit: 1649

you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon L. Turner, Ph.D. whose telephone number is (571) 272-0894. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet Andres can be reached at (571) 272-0867.

Sharon L. Turner, Ph.D.
May 8, 2006


SHARON TURNER, PH.D.
PRIMARY EXAMINER
